



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-80

916-445-2130 • FAX 916-324-3984

www.boe.ca.gov

BETTY T. YEE  
First District, San Francisco

BILL LEONARD  
Second District, Ontario/Sacramento

MICHELLE STEEL  
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.  
Fourth District, Los Angeles

JOHN CHIANG  
State Controller

RAMON J. HIRSIG  
Executive Director

**October 17, 2008**

**To Interested Parties:**

**Notice of Proposed Regulatory Action  
by the  
State Board of Equalization**

**Proposed to Adopt Regulation 1506, *Miscellaneous Services Enterprises and  
Regulation 1524, *Manufacturers of Personal Property****

**NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes amendments to Regulation 1506, *Miscellaneous Service Enterprises*, and Regulation 1524, *Manufacturers of Personal Property* in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on December 16, 2008. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by December 16, 2008.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

CURRENT LAW, REVENUE AND TAXATION CODE section 6018.6, *Alterations, cleaning, or dyeing of garments*, provides that cleaners are consumers of property used in their cleaning operations and are not required to hold seller's permits. Unlike other garment-alteration establishments, the law provides that cleaners who provide garment alterations to their customers (whether the alterations are to new or used garments) are providing nontaxable services and, therefore, are the consumers of items furnished or used in altering the garments as long as the alteration activities represent a small percentage, as specified by law, of their business. When meeting this condition, cleaners are generally not required to hold seller's permits.

RTC section 6018.6 defines cleaners as those who (1) operate a location or locations as a pickup and delivery point for garment cleaning; or (2) provide spotting and pressing services on the premises but not garment cleaning; or (3) operate a garment cleaning or dyeing plant on the premises.

Cleaners that meet *one* of the three provisions above must also satisfy *both* of the following conditions for the exclusion to apply.

. Seventy-five percent (75%) or more of the cleaner's total gross receipts must come from their clothes cleaning or dyeing services.

. Twenty percent (20%) or less of the cleaner's total gross receipts during the prior calendar year came from the alteration of new and used garments.

For purposes of the calculation, *total gross receipts* include all charges made by cleaners, including the cleaner's charges for cleaning or dyeing customer items, charges for altering garments, charges for altering other personal and household items, charges for creating new items such as wearing apparel, *and* the cleaner's sales of miscellaneous products (e.g., lint brushes, abandoned clothing, or ties).

**Alteration of garments by a third party** – As explained, cleaners who fulfill the threshold requirements of RTC section 6018.6 are consumers, not retailers, of the property used or furnished in altering new and used garments alike. Therefore, when the cleaner contracts with a third party, such as a tailor, for the alteration of garments instead of performing the alterations themselves, the third party's charge to the cleaner for altering the garments is subject to tax as provided by Regulation 1524, proposed subdivision (b)(1). Even though the cleaner may hold a seller's permit due to its sales of miscellaneous items, since the cleaner is a consumer under RTC section 6018.6, it may not issue the third party a resale certificate for such alterations.

**Charges for altering garments and other items** – In general, whether tax applies to a person's charge for altering garments, personal items, or household items is dependent on whether the altered item is "new" or "used" at the time the alterations are performed. The Board has consistently held that the "processing" of "new" material furnished by a consumer is a sale as defined by RTC section 6006. This includes the altering of "new" garments, personal items, and household items. Altering "used" items has consistently been interpreted as repair or reconditioning labor and excluded from the definition of a sale under RTC section 6006.

Persons who alter "new" garments (except for cleaners who fulfill the requirements of RTC section 6018.6) or "new" personal and household items are regarded as manufacturing, producing, processing, or fabricating personal property. Accordingly, they are required to hold seller's permits and report the taxes due on charges to their customers for labor and materials.

Labor charges made for altering "used" garments, personal items, or household items are considered nontaxable repair or reconditioning labor. Except under certain circumstances (see Exhibit 2), the person altering the used item is the consumer of the supplies and materials furnished in connection with the alterations.

**What is "fabrication" or a "step in the process"** – When changes are made to "new" garments or other personal and household items by cutting and re-sewing the item into a slightly different shape or length, the person making the change is performing a step in the process (fabrication) of producing a "new" product. Consequently, if changes are made to a "new" item to make it suitable for the customer to wear or use, those changes constitute a part of the process of fabrication. This is true even when an item is not remade into a different type of item (i.e., change a coat into a cape).

Historically, the Board has considered an item “new” when the item is brought in by the customer without hems or cuffs, or with store tags or labels still attached, or the item is clearly new and unworn/unused to the observer. In essence, an item is considered new until such time the customer has worn or used the item for its intended purpose.

On the other hand, labor charges for mending, shortening or lengthening, taking in or letting out, or otherwise altering “used” garments or other personal and household items are not taxable when such alterations merely refit or repair the item for the use for which it was originally produced. An item is considered “used” when it has been worn or used for its intended purpose.

**Current provisions in Regulations 1506 and 1524** – Guidance regarding how tax applies to the gross receipts of launderers and cleaners is currently provided in Regulation 1506, subdivision (b)(1), which also provides guidance for “barbers,” “beauty shop operators,” and “shoe polishers.” Subdivision (b)(2) discusses the application of tax to the charges made by launderers and cleaners for the rental of linen supplies and similar items, including towels, uniforms, coveralls, shop coats, and dust cloths rented to others when an essential part of the rental contract is the furnishing of the recurring service of laundering or cleaning the items rented. Launderers and cleaners are consumers of the items rented.

Guidance regarding how tax applies to charges for altering new garments is provided in the current version of Regulation 1524, subdivision (b)(1). The subdivision discusses the application of tax to alteration charges in general. Subdivision (b)(2) provides guidance regarding the application of tax to a cleaner’s charges for altering garments and, essentially, restates the provisions of RTC section 6018.6.

### **Proposed Regulations 1506 and 1524,**

Regulation 1506 and 1524 are proposed to be amended to clarify how tax applies to charges made by cleaners for their cleaning and dyeing services and when such persons are required to hold a seller’s permit. The proposed amendments also clarify how tax applies to a cleaner’s alteration charges when the cleaner meets the threshold requirements of Revenue and Taxation Code section 6018.6. Cleaners that do not meet the threshold requirements would rely on Regulation 1524 for guidance regarding their alteration charges. The proposed amendments to Regulation 1524 also clarify how tax applies to charges for the alteration of new and used items in general.

**Proposed Regulation 1506** – The Board recommends that a new subdivision (c) be added to Regulation 1506 and the current subdivision (c) be renumbered as subdivision (d). Proposed subdivisions (c)(1) and (c)(2) clarify how tax applies to a cleaner’s charges for its cleaning and rental services, and proposed subdivision (c)(3) clarifies how tax applies to charges for dyeing garments.

Staff also recommends that subdivision (b)(2) in Regulation 1524 (current version), which restates the requirements of RTC section 6018.6, be removed from the regulation and incorporated into proposed, renumbered subdivision (c)(4)(A) of Regulation 1506. A new paragraph (B) would also be added to subdivision (c)(4) to clarify how tax applies to the charges by a third party who alters the garments on behalf of the cleaner. Proposed subdivision (c)(5) would be added to Regulation 1506 to clarify how tax applies to a cleaner’s sales of

miscellaneous items and the need for the cleaner to hold a seller's permit when making such sales.

***Proposed Regulation 1524*** – The Board recommends that the provisions regarding the application of tax to alterations to “new” garments in the current version of Regulation 1524, subdivision (b)(1) be rewritten and expanded to clarify how tax applies to charges for altering “new” items in general, including garment alterations by cleaners who do not meet the threshold requirements of RTC section 6018.6. Proposed subdivision (b)(1)(B) clarifies how tax applies to the charges for altering “used” items and explains under what circumstances the person providing the alteration service would be a retailer of the supplies and materials furnished in connection with the alteration of the “used” item.

## **COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

## **EFFECT ON BUSINESS**

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization makes an initial determination that the adoption of Proposed Regulations 1506 and 1524 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

## **COST IMPACT ON PRIVATE PERSON OR BUSINESSES**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

## **SIGNIFICANT EFFECT ON HOUSING COSTS**

No significant effect.

## **FEDERAL REGULATIONS**

Proposed Regulations 1506 and 1524 have no comparable federal regulations.

## **AUTHORITY**

Section 6018.6 Revenue and Taxation Code.

## **REFERENCE**

Section 6006 Revenue and Taxation Code.

## **CONTACT**

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail [Lisa.Andrews@boe.ca.gov](mailto:Lisa.Andrews@boe.ca.gov) or by mail at State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, telephone (916) 445-2130, fax (916) 324-3984, e-mail [Richard.Bennion@boe.ca.gov](mailto:Richard.Bennion@boe.ca.gov) or by mail at State Board of Equalization, Attn: Rick Bennion MIC:81, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

## **ALTERNATIVES CONSIDERED**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective as and less burdensome to affected private persons than the proposed action.

## **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

## **AVAILABILITY OF FINAL STATEMENT OF REASONS**

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

October 17, 2008

## **ADDITIONAL COMMENTS**

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

Sincerely,

Diane G. Olson, Chief  
Board Proceedings Division

DGO:reb

Enclosures